



Crl.O.P.(MD)No.7775 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 26.04.2023

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.7775 of 2023
and Crl.M.P.(MD)No.6753 of 2023

Guna @ Guna Lakshmanan

... Petitioner/Alleged Accused No.1

Vs.

State of Tamil Nadu,
Represented by Inspector of Police,
Melapalayam Police Station,
Tirunelveli.
(Crime No.437 of 2014)

... Respondent/Complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order made in Crl.M.P.(MD) No. 229 of 2023 in SC. No.781 of 2016 on the file of the Additional Sub Judge, Tirunelveli order dated 20.03.2023.

For Petitioner
For Respondent

: Mr.Anto Prince.G
: Mr.B.Nambiselvan
Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order made in Crl.M.P.
(MD) No. 229 of 2023 in SC. No.781 of 2016 on the file of the Additional
Sub Judge, Tirunelveli order dated 20.03.2023.



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2. The petitioner is facing trial before the Court below and several witnesses were examined in chief on various dates. The petitioner did not cross-examine the witness P.W.11, since on the date of cross examination, his counsel was sick. Thereafter, the petitioner has filed a recall petition to cross examine P.W.11 and the same was dismissed by the trial Court by stating that several opportunities were given and the same was not utilized by the petitioner.

3. Heard both sides.

4. Perusal of records shows that P.W.1, suffered injury, at the hands of this petitioner and the offence under Section 307 IPC is grievous in nature and therefore, one more opportunity should be given to the petitioner to cross examine P.W.11.

5. Considering the fact that petitioner is facing serious charges, without cross examination of the witness P.W.11, a fair judgment may not be possible. On the sole ground, one more opportunity is given to the petitioner on stringent condition. The petitioner is directed to pay Rs.5,000/- (Rupees Five Thousand Only), as cost to P.W.1 to the credit of S.C.No.781 of 2016 within a week from the date of receipt of copy of this order. On such payment, the



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trial Court may fix the date for cross examine the witness of P.W.11. On that date the petitioner's counsel must cross examine the P.W.11 without fail. If any failure is noticed on the part of the petitioner's counsel, his further right of cross examination of P.W.11 will be forfeited forever.

6. With the above said direction, this petition stands allowed and the order passed by the learned Additional Sub Judge, Tirunelveli, in CrI.M.P. (MD) No. 229 of 2023 in SC. No.781 of 2016, dated 20.03.2023, is quashed. Consequently, the connection miscellaneous petition is closed. Considering the oldness of the crime, the trial Court is directed to dispose of the case in S.C.No.781 of 2016 within a period of three months from the date of cross examination of the witnesses P.W.11.

26.04.2023

Index : Yes/No
Internet:Yes/No
tta

To

- 1.The Additional Sub Judge,
Tirunelveli.
- 2.The Inspector of Police,
Melapalayam Police Station,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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G.ILANGO VAN, J.,

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and
CrI.M.P.(MD)No.6753 of 2023

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